

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on February 13, 1997 in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department
Tom Severn, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Sicilian, Department of Revenue
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Don Schnacke, Kansas Independent Oil & Gas Assn.
Wayne Woolsey, Woolsey Petroleum, Wichita
Randy Allen, Kansas Association of Counties
Dennis Schwartz, Kansas Rural Water Association
Chris McKenzie, League of Kansas Municipalities
Bob Totten, Kansas Contractors Association
Kevin Robertson, Kansas Consulting Engineers
Mike Taylor, City of Wichita
Bill Henry, Kansas Society of Professional Engineers
Robert Hall, CAS Construction, Topeka

Others attending: See attached list

Chair opened hearing on:

HCR 5004 - Constitutional amendment allowing exemption of certain oil and gas properties

Proponents:

Don Schnacke, Kansas Independent Oil & Gas Assn. (Attachment 1)
Wayne Woolsey, Woolsey Petroleum, Wichita (Attachment 2)
Randy Allen, Kansas Association of Counties (Attachment 3)

Closed hearing on **HCR 5004**.

Chair opened hearing on:

HB 2198 - Sales tax exemption for purchases by water supply agencies

Proponents:

Dennis Schwartz, Kansas Rural Water Association (Attachment 4)
Chris McKenzie, League of Kansas Municipalities (Attachment 5)
Bob Totten, Kansas Contractors Association (Attachment 6)
Kevin Robertson, Kansas Consulting Engineers (Attachment 7)
Mike Taylor, City of Wichita (Attachment 8)
Bill Henry, Kansas Society of Professional Engineers
Robert Hall, CAS Construction, Topeka (Attachment 9)

Closed hearing on **HB 2198**.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, ROOM 519-S Statehouse, at 9:00 a.m. on February 13, 1997.

Chair opened for committee comments, amendments and motions on:

HB 2105 - Kansas Tax equity and fairness act of 1997

Moved by Rep. Larkin, seconded by Rep. Powell, amend the subcommittee report on HB 2105 as follows: (1) change date from March 5 to March 20 and September 5 to September 20; (2) require tax information statement be provided to taxpayer rather than mortgage holder; (3) repeal provision which requires sending a receipt for paying of taxes by mail.

After considerable discussion, Rep. Larkin withdrew the third amendment (3) above. Rep. Powell agreed.

Moved by Rep. Larkin, seconded by Rep. Powell, amend the subcommittee report on HB 2105 as follows: (1) change dates from March 5 to March 20 and September 5 to September 20; (2) require tax information statement be provided to taxpayer rather than mortgage holder. Motion carried.

Moved by Rep. Powell, seconded by Rep. Shore, adoption of the subcommittee report. Motion carried.

Moved by Rep. Mays, seconded by Rep. Powell, amend the language by changing the word "employee" to "administrative personnel resources". Motion carried.

Moved by Rep. Wempe, amend the bill to restrict section (c) to businesses with 10 or less employees. Motion died for lack of a second.

Moved by Rep. Larkin, seconded by Rep. Krehbiel, amend property tax overpayment interest rate to the federal rate minus 4%. Motion failed.

Moved by Rep. Powell, seconded by Rep. Shore pass **HB 2105** out favorably as amended. Motion carried.

The next meeting is scheduled for February 14, 1997.

Adjournment.

Attachments - 9

TAXATION COMMITTEE GUEST LIST

DATE: FEBRUARY 13, 1997

| NAME | REPRESENTING |
|--------------------|------------------------------|
| Dennis Schwartz | Ks Rural Water Assoc. |
| Chris McKenzie | League of Ks. Municipalities |
| ROBERT HALL | CAS CONSTRUCTION, INC |
| ELMER RONNEBAUM | Ks RURAL WATER ASSOC. |
| Jama Johnson | KDOR-PVD |
| Tom Robber | Water Dist #1 of J & Co |
| Dill Anderson | Water Dist #1 of J & Co |
| Mike Taylor | City of Wichita |
| DAN NORMES | GOV'S OFFICE |
| MARK BECK | KDOR |
| Randy Allen | Ks. Assoc. of Counties |
| DAVID B. SCHLOSSER | PETE MCGILL & ASSOC. |
| Brenda Parks | Jonathan Small |
| Harriet Lange | Ks Assn B' Casters |
| Hal Hudson | NFIB/KC |
| Jon Freed | Sen. Clark |
| Greg Bryant | KS. Sierra |
| Nancy Jackson | Sierra |
| Bill Jackson | Wolf River Envir. Society |

TAXATION COMMITTEE GUEST LIST

DATE: _____

| NAME | REPRESENTING |
|------------------|--------------------------------|
| Jeff Bridges | DOB |
| Dave Holthaus | Western Resources |
| Tom Brund | Allen & Assoc. |
| Lucky Peterson | Peterson & Assoc |
| Bill Zenny | Ks. Society for Prof Engineers |
| MARK A. BURSHART | WESTERN ASSN. |
| DAVID SCHNEWEIS | WESTERN RESOURCES |
| DONALD SNODGRASS | KS FOOD DEALERS ASSOCI |
| KEVIN ROBERTSON | BREECE & ASSOCIATES |
| Jim Allen | CPA |
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KANSAS INDEPENDENT OIL & GAS ASSOCIATION

105 S. BROADWAY • SUITE 500 • WICHITA, KANSAS 67202-4262
(316) 263-7297 • FAX (316) 263-3021
800 S.W. JACKSON • SUITE 1400 • TOPEKA, KANSAS 66612-1216
(913) 232-7772 • FAX (913) 232-0917

*Testimony of Donald P. Schnacke, Executive Vice President
Kansas Independent Oil & Gas Association
before the House Taxation Committee
February 13, 1997*

RE: HCR 5004- Constitutional Amendment to Exempt Oil & Gas Properties from Property Tax for Exploration & Production Activity

My name is Don Schnacke. I am Executive Vice President of the Kansas Independent Oil & Gas Association, a 60-year old association representing independent oil and gas operators in Kansas and the supporting industry. We are appearing here in support of the passage of HCR 5004.

Many members of the Committee will remember this subject from last year as HCR 5031. We had a very constructive hearing with no opposition. Your Committee moved HCR 5031 to the floor, but the leadership was fearful any constitutional amendment might become a vehicle for gambling legislation and held the bill down. It was never acted upon on the House floor. We believe this year is different and we predict the legislature will approve constitutional amendment proposals and we hope HCR 5004 will be among them.

HCR 5004 is a rural county economic development measure that would stimulate increased drilling and production and does not remove existing property from the tax rolls.

KIOGA is doing all it can to stimulate increased activity and investment in Kansas oil and gas field activity. Since 1986 when oil prices collapsed and nearly 20,000 Kansans were put out of work, we have slowly made some progress.

One important area we have explored is the use of the ad valorem tax exemption authority arising from Section 13, Article 11 of the Kansas Constitution. Two Kansas counties, Trego and Wichita, have offered oil producers modest tax relief if they will expend money, drill for oil and gas, and find new production. After Wichita County and a Kansas producer entered into their agreement, the State Board of Tax Appeals rejected the application.

BOTA rejected the application because the terms and facts presented did not fit the language presented in the Constitution. We would agree that the constitutional provisions better fit the traditional machine shop, warehouse, manufacturing mode than that applicable to an oil and gas operation. The legislative challenge is to seek legislation that would clearly allow oil and gas producers to qualify under the constitutional authority. I talked to the BOTA Chairman after their order was issued and he believes a legislative solution for clarification is the answer. He regretted turning down the Wichita County application.

We believe the producing counties which have very little opportunity for economic development except farming and ranching should be given the opportunity that other Kansas counties now enjoy - the opportunity to attract capital expenditure into their counties, the creation of jobs, and expansion of their ad valorem tax base by working directly with the oil and gas industry.

There are other here to support the passage of HCR 5004. We would conclude by requesting that this Committee once again look favorably on this legislation and recommend its passage.

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Attachment 1-1

DPS:pp



WOOLSEY PETROLEUM CORPORATION

107 NORTH MARKET SUITE 600 WICHITA, KANSAS 67202 (316) 267-4379
FAX (316) 267-4383

*Statement of I. Wayne Woolsey, President
Woolsey Petroleum Corporation*

HOUSE TAXATION COMMITTEE

FEBRUARY 13, 1997

RE: HCR 5004 - CONSTITUTIONAL AMENDMENT TO EXEMPT OIL & GAS PROPERTIES FROM
PROPERTY TAX FOR EXPLORATION & PRODUCTION ACTIVITY

My name is Wayne Woolsey and I am the President and owner of Woolsey Petroleum Corporation, an independent oil and gas company located in Wichita. I am appearing here in support of the passage of HCR 5004. I appeared before the House Taxation Committee in 1996 in support of HCR 5031, predecessor to HCR 5004.

For nearly 25 years, Woolsey Petroleum Corporation has been effectively engaged in the drilling and production of oil and gas. Operating primarily in Kansas, with some production in Oklahoma and Texas, Woolsey Petroleum Corporation has been responsible for the drilling of 490 wells.

Three years ago we made application in Wichita County for a partial abatement in county taxes under the Amendment to the State Constitution, Article 11, Section 13. It was our understanding that this Amendment allowed for some local tax relief for companies willing to make a meaningful investment towards economic development. Our application, as you know, was rejected at the State Board of Tax Appeals level because it was the opinion of the Board that this Amendment was not particularly applicable to the oil and gas business. We strongly believe that our investment can lead to as much or more tax revenue and job creation as any other industry that is currently entitled to this type of economic development incentive. The oil and gas industry is a very important part of the economy of Kansas.

Although oil and gas companies carry out many types of activity in the production of oil and gas (like infill drilling, the reworking of old wells and close-in development drilling), nothing stimulates a rural economy more quickly than the discovery of a new oil and gas field which results from exploration drilling. The discovery of new oil and gas fields immediately enhance the property tax base and create meaningful, lasting employment for many years into the future. Also, any one discovery will attract the additional investment and business activity of other oil and gas companies.

Our proposal in Wichita County, a county that has almost no existing oil and gas production, was to initially spend over \$3,000,000 in the development and drilling of eight separate wildcat drilling blocks consisting of over 23,000 acres of oil and gas leases. This play was indicated to have the potential of three 20,000,000 barrel oil fields. With one 20,000,000 barrel field discovery, estimating the price of oil at \$20 per barrel, a county tax of 10% **would yield nearly \$40,000,000 in county tax revenue**. This would establish, over the next fifteen years, approximately 60 full-time employees.

Based to some degree on our 1994 application for county tax relief, we did raise sufficient capital to drill five wells and have completed one that is indicated to be a profitable well. We believe Wichita County is a promising area for additional seismic and drilling, and see similar potential in several other counties in Kansas.

We ask that you approve HCR 5004 so that we can qualify for the type of incentives that we feel are necessary to follow through with activity in Wichita County and other high-risk areas of oil and gas exploration.

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Attachment 2-1

TESTIMONY

concerning House Concurrent Resolution No. 5004

Given by Randy Allen, Executive Director, Kansas Association of Counties
before the House Taxation Committee
February 13, 1997

Mr. Chairman and members of the committee. My name is Randy Allen, and I am speaking today in support of HCR 5004. This resolution, if enacted and the language subsequently amended into the Kansas Constitution, would give boards of county commissioners the **discretion** to exempt certain property used for oil and gas development, exploration and production purposes from taxation.

In some of our counties which have suffered severe economic distress over the past several years, the capacity for county commissioners to encourage economic development in this way is certainly appealing. This is not a "one size fits all" solution; rather, it clearly recognizes that our 105 counties' economies are all somewhat different. Trego and Wichita counties, both members of our Association, have demonstrated their interest in granting such exemptions and would surely consider such action should the Constitution be amended to allow such a policy decision to be made at the local level.

There is no mandate on county government associated with HCR 5004. The board of county commissioners in each county could decide whether an exemption makes sense to them. I urge your favorable consideration of the resolution.

Trego County Treasurer Gary Watson had intended to be here to present affirmative testimony on behalf of the Board of Trego County Commissioners but was unable to attend. I have attached the written comments from Trego County to my testimony and would request that they be accepted into the record.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to the KAC by calling (913) 233-2271.

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February 13, 1997

To: Committee on Taxation

Re: HCR 5004

Dear Chairperson and Committee Members:

My name is Gary Watson. I am the Trego County Treasurer and I am here representing the Board of County Commissioners from Trego County.

In 1993, Trego County started on a venture to promote oil & gas exploration within the county. The philosophy of the commissioners was grant some type of tax incentive, on new production, and it would be more attractive for oil producers to drill oil wells. What we encountered were formalities such as: jobs created, building costs, and economic impact that one well would create for the county. Of course, one well isn't going to do much. However, several wells could mean a substantial increase in valuation. Wichita County went so far as sending a trial case to the Board of Tax Appeals. That request was denied because of the formalities I previously mentioned.

While many counties are more economically diversified, many counties, such as Trego County, are dependant upon a limited number of industrial opportunities. The main industries in Trego county are agriculture and the oil industry. Both of those industries have suffered severely in

the past few years. Whatever we can do to benefit them, becomes an economic boost to our county. It's for that reason, that Trego County started pursuing this venture.

Since 1993, KIOGA has continued the effort and developed HCR 5004. This resolution does not create any obligations for the counties. What it does is provide the counties another tool to promote economic development, from the resources they have available.

On behalf of the Board of County Commissioners and myself, I would like to thank you for considering HCR 5004 and we ask that you favorably pass this resolution.



KANSAS
RURAL
WATER
association

Quality water, quality life

P.O. Box 226 • Seneca, KS 66538 • 913/336-3760 • FAX 913/336-2751

COMMENTS ON
HOUSE BILL No. 2198
BEFORE THE HOUSE COMMITTEE ON TAXATION
February 13, 1997

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to present comments on House Bill No. 2198. I am Dennis Schwartz, a member of the Board of Directors of the Kansas Rural Water Association; I am also General Manager of Rural Water District No. 8, Shawnee County, KS. The Association provides technical assistance to public water and wastewater systems and a variety of training opportunities for operators, board and council members. The Association's membership includes 275 rural water districts and 325 cities and 232 supplier/vendor associate members.

The Kansas Rural Water Association supports House Bill No. 2198. As an employee of a rural water district, and from my experience with the Association, I can tell you that I know of no administrative aspect that consumes as much time as trying to determine the application of state sales tax. As an example, I would like to read directly from the guideline booklet, Sales and Use Tax for Kansas Political Subdivisions:

"A city uses electricity or gas to power a water pump that extracts water from a well. This utility use qualifies for exemption as tangible personal property "consumed in production".

The next example: *"The generator that generates electricity at an electrical power plant qualifies as manufacturing machinery. Also qualifying is the pump used to pump water from the ground to the treatment plant. CAUTION: This exemption applies ONLY to manufacturing machinery and equipment and those repair and replacement parts that are major components, such as a compressor or a motor. Repair parts (fan belts, spark plugs, etc.), peripheral equipment such as control panels and electrical conduit, and ALL labor services to install or repair a qualifying item are TAXABLE."*

At best, this is confusing -- to the utilities, contractors, designers and also to the Department of Revenue. A control panel to operate a pump which may be tax-exempt is only exempt to the extent of use required to operate the pump; the conduit to connect the pump, even when the contractor bids a unit price, is taxable but the electrical wiring may not be. In many cases, the control panel is more of a component than is the pump or motor. We also know of situations in water districts and cities in Kansas where the power bills are being divided to separate the power required to lift water out of the well to that required to send it to the tank.

The water district I manage is working to build an addition to its treatment plant. We have had to structure construction bid documents into four segments -- with the separation being what components are taxable and which are not. This splitting of bid documents has no relationship to construction time-frames or what anyone could conceive as being based on good business judgment. Ensuring the highest level of compliance with sales tax application likely is costing the utility thousands of additional dollars because of ramifications that go far beyond concerns for paying of appropriate sales tax.

The Kansas Rural Water Association suggests that the public at large will benefit if HB 2198 were approved, the Dept. of Revenue would be relieved of trying to administer an exceedingly confusing law and regulatory relief would be gained by water utilities, designers and contractors. We hope that you will give favorable consideration to HB 2198.

Respectfully submitted,

Dennis Schwartz
Director

House Taxation
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Attachment 4-1



**League
of Kansas
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 300 S.W. 8TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

TO: House Committee on Taxation

FROM: Chris McKenzie, Executive Director

DATE: February 13, 1997

SUBJECT: HB ²¹⁹⁸2242-Retailers' Sales Tax on Water Utilities

Thank you for the opportunity to appear today in support of HB 2198, exempting purchases of public water utilities from state and local retailers' sales tax. As you know, current law provides that purchases by political subdivision are exempt from the sales tax when the subdivisions are acting in their governmental capacity. When a city is acting in a proprietary capacity, however, such as in the furnishing of gas, water, electricity or heat, sales taxes are due.

The provision of water supplies to Kansas citizens today is largely the function of local governments in Kansas. Unlike gas and electric service, only a handful of private water companies exist today. In other words, water service, not unlike wastewater service, can more accurately be described as a core government service and, therefore, an appropriate object for exemption from the sales tax. In fact, with increasing federal regulation of drinking water supplies, it appears unlikely to us that future growth in the privatization of water utility service is a long term possibility.

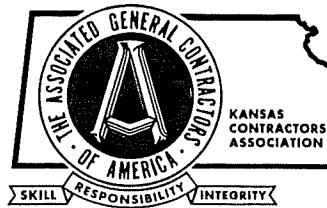
For many smaller cities there is another reason to approve this exemption. Cities with water utilities also purchase equipment which is used for the street maintenance, park maintenance, and other traditional municipal functions. In the recently revised edition of the League's *Governing Body Handbook*, we felt it was important to advise city officials that a city's application for exemption for such mixed use equipment (e.g., pickup truck) may be denied by the state because it is not used exclusively for an exempt purpose. Unfortunately, the result of this situation is either a higher cost for equipment used for governmental purposes or duplication of equipment purchases--both unacceptable results.

For larger cities which consume electricity and other property in the pressurization and delivery of water for fire suppression purposes (a traditional government function), a similar problem has developed, requiring extensive bookkeeping to segregate fire suppression related water utility expenses from all others.

RECOMMENDATION: For the above reasons, we urge your support for this measure.

House Taxation
2-13-97
Attachment 5-1

THE KANSAS CONTRACTORS ASSOCIATION, INC.



OFFICERS

BILL KLAVER, JR., President
Kingman, Kansas

ORVILLE SPRAY, JR., Vice President
Great Bend, Kansas

TED DANKERT, Treasurer
Towanda, Kansas

STAFF

DAN RAMLOW, Executive Director
BOB TOTTEN, Public Affairs Director
JIM RAMSAY, Member Services Director

316 SW 33RD ST PO BOX 5061
TOPEKA KS 66605-0061
PHONE (913) 266-4152
FAX (913) 266-6191

TESTIMONY BY

THE KANSAS CONTRACTORS ASSOCIATION

REGARDING HOUSE BILL 2198

BEFORE THE HOUSE TAXATION COMMITTEE

February 13, 1997

Mr. Chairman and members of the House Taxation Committee, thank you for the opportunity to appear before you today to provide input on House Bill 2198.

I am Bob Totten, Public Affairs Director for the Kansas Contractors Association. Our association represents over 390 heavy, highway, utility and municipal utility contractor and associate members in the Kansas Construction Industry.

This morning, I want to let you know we support House Bill 2198. We favor the bill since it will allow more money to be spent on water treatment plant construction and save a lot of headaches for our contractors. If this measure is passed, money earmarked for water treatment facilities will go for the construction of the plants and not have a portion go to the state general fund. That means small water utility operations will be able to afford better and larger water treatment plants when they decide to build a new plant. In this state, there is a great need for water treatment plants and with money so tight, we don't need to tax the process as we go along and slow this environmental need.

Secondly, this bill will create less headaches for our contractors. Right now, when our contractors bid a job, many are unclear what to include in their bid for sales tax. Do they include sales tax on this item or that? They visit with the consulting engineer to get some guidance, trust their memories on the last job they got and ask for help from the state revenue department..but still they don't really know. If they put the sales tax in the bid, they may lose the job since the winning bidder who could be from out of state is unfamiliar with the state taxing laws. The out of stater may get the job but may lose money later when the revenue department conducts their

DIRECTORS

EUGENE "CORKY" BEACHNER
St. Paul, Kansas
GARY BROWN
Salina, Kansas
JOHN BRYAN
Overland Park, Kansas
CHUCK GRIER
Wichita, Kansas
CHARLES JARVIS
Hutchinson, Kansas
DICK KISTNER
Marysville, Kansas
DAN SCHEER
Wichita, Kansas
JIM SNOOK
Wichita, Kansas
JOHN WALTERS
Manhattan, Kansas
DAVID WITTWER
Wichita, Kansas

House Taxation
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audits of the job.

On the other hand, if the local contractor does gets the job, then he may do just fine until he is audited and discovers what he thought was tax exempt is actually a tax and he has to pay the difference.

Again, we support House Bill 2198. I thank you for your time this morning and I will be glad to answer any of your questions if I can.



Statement to
House Committee on Taxation
House Bill 2198
Thursday, February 13, 1997

Mr. Chairman and members of the Committee. I am Kevin Robertson with Barbee & Associates appearing today on behalf of the Kansas Consulting Engineers. KCE is an organization founded in 1956, and its engineering firm members perform design services worldwide on projects ranging from roads and bridges to sewers and electrical power plants and everything in between.

When contracting to design projects with their clients, the owner and engineer will usually enter into a written contract which spells out the services the consulting engineer will provide. As stated in the Standard Form of Agreement Between Owner and Engineer, the engineer is to "assist the OWNER in advertising for and obtaining bids or negotiating proposals for the WORK and, where applicable, maintain a record of perspective bidders to whom Bidding Documents have been issued and attend pre-Bid conferences" and "assist in the awarding of the contract for the WORK."

This includes preparing the contract documents for the agreement between the OWNER and the CONTRACTOR. In these documents there is a statement regarding responsibilities of the CONTRACTOR to pay taxes. The standard clause states, "CONTRACTOR shall pay all sales, consumer, use, and other similar taxes required to be paid by CONTRACTOR in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the WORK."

In order to prepare an accurate bid for a project, a contractor must identify those services and materials which are taxable. Assuming a service is exempt will cause the contractor to under bid and lose revenue, whereas assuming a service is taxable will result in a higher bid which may price the contractor over his competitors. The complexity of tax law results in many questions from contractors to engineers regarding the taxability of services and materials for water systems. While some answers can be correctly provided based on past experience, often the engineer chooses not to interpret tax law due to liability concerns. In either case, the waste of productive time by both contractors and engineers could be eliminated for water projects if this bill becomes law.

Mr. Chairman, thank you for the opportunity to speak to this issue as we request favorable action on House Bill 2198.

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Attachment 7-1



City of Wichita Testimony Regarding House Bill 2198 House Committee on Taxation

By Mike Taylor, Government Relations Director
February 13, 1997

The City of Wichita stood before this committee one year ago with its own bill to address the problem of sales tax applied to the municipal water utility. The City of Wichita's concern was prompted by a Department of Revenue audit which demanded sales tax by paid on all kinds of purchases made by the water utility. The Revenue Department audit represents an aggressive new collection effort, one which in some areas, finds the Department refusing to follow its own regulations. That audit by the way is still in the appeal process because Revenue officials repeatedly postpone and continue the hearings.

While House Bill 2198 as written will not undo the audit Wichita faces, it will clarify these issues for Wichita and other water utilities in the future and give Revenue Department auditors a clear legislative mandate regarding sales taxes and water utilities. Given the City of Wichita's experience, that mandate is very much needed.

Traditionally, City governments do not pay sales taxes to the State government for providing municipal services. As the Wichita audit proves, that is not true when it comes to providing water to our residents. The Wichita audit also proves the Revenue Department is aggressively looking for new ways to tax basic municipal services, including not just the providing of water, but fire protection, and street repairs related to water utility projects. The Revenue Department is even attempting to tax city vehicles, telephones and computers purchased by tax-exempt City departments if those items are in anyway at anytime used by a Water Department employee.

In the case of the Wichita audit, the Department of Revenue is attempting to assess sales tax plus interest and penalties totaling \$682,000. That cost will increase dramatically if the Revenue Department is successful in its case against Wichita. Other municipalities and water providers are concerned because without action from the Legislature, the Revenue Department's unprecedented initiative to collect more money at the expense of local governments and water providers will accelerate and penalize residents statewide. The Revenue Department's actions amount to a bureaucratic tax increase on the residents of Kansas, a tax increase not approved by any City Council or the Legislature.

House Bill 2198 will clarify and correct the confusing, inconsistent question of what's taxable and what's not when it comes to providing basic City services such as water and fire protection.



CAS CONSTRUCTION, INC.
501 N.E. BURGESS • TOPEKA, KS 66608

913/354-9953

FAX NUMBER
913/354-4939

WATER & WASTEWATER TREATMENT PLANT SPECIALISTS

COMMENTS ON
HOUSE BILL No. 2198
BEFORE THE HOUSE TAXATION COMMITTEE
February 13, 1997

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to present comments on House Bill No. 2198. I am Robert Hall, Chief Financial Officer of CAS Construction, Inc., Topeka, KS. We are a prime contractor that exclusively builds new and rehabilitates existing water treatment and wastewater treatment facilities for municipal clients in Kansas, Missouri, Nebraska, Colorado, Iowa and Oklahoma.

As a member of the construction industry, we support House Bill 2198. Having had the experience of regularly working in our neighboring states, we know first-hand the contrasting attitudes towards sales tax on municipal government construction projects. From these experiences, we know how simple the process of administratively exempting municipal projects can be accomplished.

For instance, up until 1994, the State of Missouri was a virtual twin to the State of Kansas in taking a complex position on the sales tax on municipal water projects. Today, not only does Missouri not publish a 26-page booklet entitled **Sales and Use Tax for Kansas Political Subdivisions** (as Kansas does), but they exempt from sales tax **ALL** municipal construction projects without regard for type of project.

I have attached a sample of the **Missouri Project Exemption Certificate** as an example of how simple the certification process can be. The form of the attached certificate is prescribed by the State of Missouri, however, it is prepared by the municipal client for us, the contractor. We in turn have the delegated authority to pass the exemption on to a vendor or subcontractor. This is accomplished without any intervention by employees of the Missouri Department of Revenue. I have also attached simple one page forms that are currently being used by the states of Nebraska and Colorado to serve the same purpose.

The confusion of the contractor also affects pricing of projects. Knowing how many interpretations can be offered by Revenue Department employees, imagine the range of interpretations that can be made by contractors on bid day. It potentially provides for an uneven playing field; and in some cases, raises the project cost to the municipal client.

Now is the time to simplify the process. CAS Construction, Inc. encourages support for House Bill No. 2198.

Respectfully submitted,



Robert F. Hall, C.P.A.

House Taxation
2-13-97
Attachment 9-1

MISSOURI PROJECT EXEMPTION CERTIFICATE

Authorization For Purchasing Construction Materials for Tax Exempt Project

EXEMPT ENTITY ISSUING CERTIFICATE

Name: Water Services Department

Address: 5th Floor, City Hall, 414 E. 12th Street

City/State/Zip: Kansas City, MO 64106

MO Tax Exempt I.D. #: 12490466 Expiration Date: 1/31/2000

Project Location: BLUE RIVER WASTEWATER TREATMENT PLANT 7300 HAWTHORNE ROAD

Project Description: DIGESTER COVER & MIXER REPLACEMENT

Contract No.: 460 Notice to Proceed Date: SEPTEMBER 11, 1996

Estimated Project Completion Date: AUGUST 8, 1997

Certificate Expiration Date: AUGUST 8, 1997 Revised Expiration Date: N/A

Auth. Signature: *Mark M. Lube* Date: SEPTEMBER 23, 1996

The Missouri exempt entity named above hereby authorizes the purchase, without sales tax, of tangible personal property to be incorporated or consumed in the construction of the project identified herein and no other, pursuant to Section 144.062 RSMo.

PURCHASING CONTRACTOR OR SUBCONTRACTOR

Name: CAS CONSTRUCTION, INC. J.S. EDWARDS CONSTRUCTION CO.

Address: 501 NE Burgess P.O. Box 226

City/State/Zip: Topeka, KS. 66608 Grandview, MO 64030

INSTRUCTIONS

CONTRACTOR OR SUBCONTRACTOR - The contractor shall furnish a completed copy of this exemption certificate to all subcontractors, and any contractor or subcontractor purchasing materials shall present copies of such documents to all material suppliers as authorization to purchase, on behalf of the exempt entity, all tangible personal property and materials to be incorporated or consumed in the construction of that project and no other on a tax-exempt basis. A copy of each certificate must be retained by the purchaser for a period of five years.

MATERIAL SUPPLIER - A completed copy of this exemption certificate must be obtained from the contractor or subcontractor making purchases of tangible personal property for use in the project, and retained for audit purposes. Invoices issued for such purchases must reflect the name of the exempt entity and the contract number assigned by the exempt entity shown above.



Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax

FOI
17

PURCHASING AGENT APPOINTMENT

| Name and Address of Prime Contractor | | | Name and Address of Governmental Unit or Exempt Organization | | |
|--|-------|------------|--|-------|----------|
| Name CAS CONSTRUCTION, INC | | | Name CITY OF YORK | | |
| Street or Other Mailing Address PO BOX 2818 | | | Street or Other Mailing Address 100 EAST 4TH | | |
| City | State | Zip Code | City | State | Zip Code |
| TOPEKA | KS | 66601-2818 | YORK | NE | 68467 |
| Name and Location of Project | | | Appointment Information | | |
| Name 1995 WASTEWATER TREATMENT PLANT IMPROVEMENTS | | | Effective Date 01-01-96 | | |
| Street or Other Mailing Address 814 EAST NOBES | | | Expiration Date 12-31-96 | | |
| City | State | Zip Code | Nebraska Exemption Number (Exempt Organizations Only) | | |
| YORK | NE | 68467 | | | |
| Identify Project | | | | | |

The undersigned governmental unit or exempt organization appoints the above named contractor and the contractor's delegated subcontractors as its agent to purchase and pay for materials which will be incorporated by them into the tax exempt construction project stated above.

sign here

C. Joan Miller
Authorized Signature of Governmental Unit or Exempt Organization

City Clerk
Title

3/25/96
Date

DELEGATION OF PRIME CONTRACTOR'S AUTHORITY

| Name and Address of Subcontractor | | | Delegation Information | |
|---|-------|----------|-----------------------------|--|
| Name Eliason & Knuth of Lincoln | | | Effective Date 01-01-96 | |
| Street or Other Mailing Address 3800 TOUZALIN AVENUE | | | Expiration Date 12-31-96 | |
| City | State | Zip Code | Portion of Project | |
| LINCOLN | NE | 68507 | DRYWALL/CEILING SUB | |

The undersigned prime contractor hereby delegates authority to act as the purchasing agent of the named governmental unit or exempt organization to the above named subcontractor.

sign here

Robert F. Hertz
Signature of Prime Contractor or Authorized Representative

TREASURER
Title

3.25.96
Date

INSTRUCTIONS

WHO MUST FILE. Any governmental unit or organization exempt from sales and use tax that has appointed as its agent a prime contractor to purchase materials which will be incorporated into a construction project must issue a Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, to the prime contractor. The exempt organization or governmental unit must identify the project e.g., east wing, chapel construction, new school auditorium.

WHEN TO FILE. A prime contractor engaging in a construction project with a governmental unit or exempt organization must receive a properly completed and signed Purchasing Agent Appointment **BEFORE** his portion of the construction project begins.

WHERE TO FILE. The canary copy will be retained by the governmental unit or exempt organization and the white copy will be retained by the prime contractor. Copies of this form must be reproduced by the prime contractor for delegation purposes.

DELEGATION OF PRIME CONTRACTOR'S AUTHORITY. The prime contractor may delegate his authority to act as the purchasing agent of the governmental unit or exempt organization to a subcontractor. The prime contractor must complete his copy of the Purchasing Agent Appointment for each subcontractor who is delegated authority to act as a purchasing agent. Reproductions of this delegation must be provided to the subcontractor who must retain a copy for his records and the governmental unit or exempt organization.

PRIME CONTRACTOR - White Copy

GOVERNMENTAL UNIT OR EXEMPT ORGANIZATION - Canary Copy

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printed on recycled paper

DR 0163 (11/92)
COLORADO DEPARTMENT OF REVENUE
1375 SHERMAN STREET
DENVER CO 80261

CONTRACTOR'S EXEMPT CERTIFICATE

| | | |
|--|----------------|-----------------|
| Exempt Organization EVERGREEN METROPOLITAN DISTRICT | | |
| USE ACCOUNT NUMBER for all references | EFFECTIVE DATE | EXPIRATION DATE |
| 89-08317-0010 | 06-17-96 | 01-30-97 |

**THIS CERTIFICATE IS
NOT TRANSFERABLE**

PHYSICAL LOCATION: 3901 HIGHWAY NO 74
EVERGREEN CO



CAS CONSTRUCTION INC
PO BOX 2818
TOPEKA KS 66601-2818

Terence Muger

**Executive Director
Department of Revenue**

This certificate is for use by contractors to purchase building materials tax free to be used for the above exempt project at the above location only.

I hereby certify that the contractor listed below is a subcontractor on this project. All purchases by the subcontractor are also exempt.

| | |
|---|----------------------------------|
| Sub-contractor | ACME PLUMBING |
| Address | 100 MAIN ST., EVERGREEN, CO |
| Signed under penalty of perjury in the second degree. | |
| Signature - Prime Contractor | <i>Robert J. Hill, TREASURER</i> |

NOTE: The Department no longer issues Certificates to each subcontractor. It is the responsibility of the prime contractor to provide a copy of this certificate to each subcontractor for this project. Please follow these procedures:

Copy this Certificate for each subcontractor. Supply the information requested above and sign the form. Give a copy to the subcontractor for his/her use in purchasing materials tax-free for this project.

Retain the original certificate and a copy of each certificate issued to your subcontractors at your place of business. These copies must be available for a minimum of three years for inspection in the event of an audit.

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